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MAY 19 2004

OFFICE OF PETITIONS

In re Application of
Pan, Yang & Chen
Application No. 10/756,923
Filed: January 13, 2004
Attorney Docket No. 23340-08598
For: FABRICATION OF A REFLECTIVE
SPATIAL LIGHT MODULATOR

:
:
: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)
:
:

This is in response to the petition under 37 CFR 1.47(a), filed January 13, 2004.

It appears that petitioners have submitted documents with the intention of having an entity with a proprietary interest intervene and make the application on behalf of the non-signing inventor. Petitioners are reminded that when at least one joint inventor signs, the provisions of 37 CFR 1.47(a) apply. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). MPEP 409.03(b). Therefore, the petition will be treated under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is granted.

Petitioners have shown that the non-signing inventor, Shaoher X. Pan, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, exhibits to the petition establish that the inventor received a copy of the application papers as filed, but constructively refused to sign the declaration through his attorney, Frederick D. Baron. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.¹

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology

¹ As explained above, a party with proprietary interest cannot file an application when at least one joint inventor signs the declaration. Fortunately, the present declaration was signed by the two available joint inventors and the nonsigning inventor's signature block was left blank. Therefore, the declaration is acceptable under 37 CFR 1.47(a). The added page to the declaration, signed by an empowered representative of a company with proprietary interest will **not** be considered part of the declaration. The added page will be retained in the application file, however.

Application No. 10/756,923

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Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script, appearing to read "E. Shirene Willis".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



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LETTER **OFFICE OF PETITIONS**

In re Application of
Pan, Yang & Chen
Application No. 10/756,923
Filed: January 13, 2004
Attorney Docket No. 23340-08598
For: FABRICATION OF A REFLECTIVE
SPATIAL LIGHT MODULATOR

Dear Dr. Pan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: JENNIFER R. JOHNSON
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